

**UNITED STATES DEPARTMENT OF COMMERCE****Patent and Trademark Office**Address: COMMISSIONER OF PATENTS AND TRADEMARKS  
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SERIAL NUMBER	FILING DATE	FIRST NAMED APPLICANT	ATTORNEY DOCKET NO.
08/834,777	04/03/97	HEINDEL	T 11.589.3

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QM41/0508

EXAMINER

ART UNIT/HQ, PAPER NUMBER

DATE MAILED: 3735

05/08/98

**Please find below a communication from the EXAMINER in charge of this application.****Commissioner of Patents**

## Office Action Summary

Application No. <b>08/834,777</b>	Applicant(s) <b>Heindel et al.</b>
Examiner <b>CHO, David J.</b>	Group Art Unit <b>3735</b>

Responsive to communication(s) filed on 3 Apr 1997

This action is FINAL.

Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

A shortened statutory period for response to this action is set to expire 3 month(s), or thirty days, whichever is longer, from the mailing date of this communication. Failure to respond within the period for response will cause the application to become abandoned. (35 U.S.C. § 133). Extensions of time may be obtained under the provisions of 37 CFR 1.136(a).

### Disposition of Claims

Claim(s) 35-51 is/are pending in the application.

Of the above, claim(s) \_\_\_\_\_ is/are withdrawn from consideration.

Claim(s) \_\_\_\_\_ is/are allowed.

Claim(s) 35-51 is/are rejected.

Claim(s) \_\_\_\_\_ is/are objected to.

Claims \_\_\_\_\_ are subject to restriction or election requirement.

### Application Papers

See the attached Notice of Draftsperson's Patent Drawing Review, PTO-948.

The drawing(s) filed on \_\_\_\_\_ is/are objected to by the Examiner.

The proposed drawing correction, filed on \_\_\_\_\_ is  approved  disapproved.

The specification is objected to by the Examiner.

The oath or declaration is objected to by the Examiner.

### Priority under 35 U.S.C. § 119

Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).

All  Some\*  None of the CERTIFIED copies of the priority documents have been

received.

received in Application No. (Series Code/Serial Number) \_\_\_\_\_.

received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

\*Certified copies not received: \_\_\_\_\_

Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).

### Attachment(s)

Notice of References Cited, PTO-892

Information Disclosure Statement(s), PTO-1449, Paper No(s). 4

Interview Summary, PTO-413

Notice of Draftsperson's Patent Drawing Review, PTO-948

Notice of Informal Patent Application, PTO-152

JOHN G. WEISS  
SUPERVISORY PATENT EXAMINER  
GROUP 3300

--- SEE OFFICE ACTION ON THE FOLLOWING PAGES ---

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***Claim Rejections - 35 USC § 102***

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless --

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 35-43, 45-46 and 48-51 are rejected under 35 U.S.C. § 102(b) as being anticipated by Roessler et al. '5,176,670.

Roessler discloses a disposable absorbent article comprising an outer cover, a bodyside liner, an absorbent core, and at least one hook-and-loop type mechanical fasteners on the ear tab, wherein the hook material includes a base sheet and stemlike projections. The stemlike projections are releasable engaged with the loop material which is joined to the outer cover. In regards to claim 41, since Roessler teaches the bodyside liner is a spunbond material as the same material disclosed in the present application, the stemlike projections has the capability to engage with the bodyside liner. With respect to claim 37, see figure 3, element 30. With respect to claim 39, Rossler discloses the tab 30 is made from polypropylene film, which inherently possess an elastic characteristics. With the claim limitation of peel strength of at least about 20 grams, Roessler discloses the hook and loop fastener has a peel force in the range of about 200-1200 grams.

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***Claim Rejections - 35 USC § 103***

3. The following is a quotation of 35 U.S.C. § 103 which forms the basis for all obviousness rejections set forth in this Office action:

A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

Subject matter developed by another person, which qualifies as prior art only under subsection (f) or (g) of section 102 of this title, shall not preclude patentability under this section where the subject matter and the claimed invention were, at the time the invention was made, owned by the same person or subject to an obligation of assignment to the same person.

This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. § 103, the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 C.F.R. § 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of potential 35 U.S.C. § 102(f) or (g) prior art under 35 U.S.C. § 103.

4. Claim 44 is rejected under 35 U.S.C. § 103 as being unpatentable over Roessler.

Roessler discloses the invention substantially as claimed, however Roessler does not disclose the disposable article including a peel strength of from about 30 to 90 grams.

In application's specification, the peel strength is not taught to solve any particular problem or produce any unforeseen result, and therefore is considered an obvious matter of design choice to one of ordinary skill in the art. Accordingly, it would have been obvious to one of ordinary skill in the art at the time the invention was made to have provided the

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invention of Roessler with the peel strength of from about 30 to 90 grams as a matter of routine engineering choice barring some convincing evidence of criticality.

5. Claim 47 is rejected under 35 U.S.C. § 103 as being unpatentable over Roessler in view of Nestegard '4,894,060.

Roessler discloses the invention substantially as claimed, however Roessler does not disclose the stemlike projection and disposable article engaged by passing between a pair of rotatable nip rollers.

Nestegard teaches to use nip rollers 62, 63 to bond the stemlike projections to the disposable absorbent article.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to have provided the invention of Roessler with the method of nip rollers as taught by Nestegard to bond the stemlike projections to the disposable absorbent article.

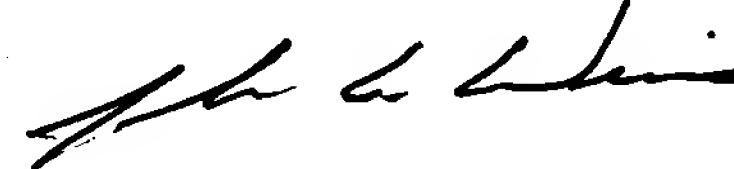
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6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to David J. Cho whose telephone number is (703) 308-0073. The Examiner can normally be reached on Monday-Friday from 7:00 am to 4:00 pm.

If attempts to reach the Examiner by telephone are unsuccessful, the Examiner's supervisor, John Weiss can be reached on (703) 308-2702. The fax number for this Group is (703) 305-3590 or x3591.

Any inquiry of a general nature or relating to the status of this application should be directed to the Group receptionist whose telephone number is (703) 308-0585.

dj cho  
  
Patent Examiner  
May 6, 1998

  
JOHN G. WEISS  
SUPERVISORY PATENT EXAMINER  
GROUP 3300